APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,433	11/24/2003	Norio Tomiyoshi	FUJR 20.752	5112

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EXAMINER
BURD, KEVIN MICHAEL

ART UNIT	PAPER NUMBER
2611	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/720,433	TOMIYOSHI ET AL.
	Examiner	Art Unit	
	Kevin M. Burd	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 July 2007*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4* is/are pending in the application.

　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　a)☐ All b)☐ Some * c)☐ None of:

　　1.☐ Certified copies of the priority documents have been received.

　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

1.   This office action, in response to the amendment filed 7/20/2007, is a final office

action.

Response to Arguments

2.   Applicant's arguments filed 7/20/2007 have been fully considered but they are

not persuasive. Applicant has added a new limitation to the claims. The new limitation

is addressed in the rejection stated below. Nishio discloses all of the claimed limitations

of claims 1-4.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed
publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3.   Claims 1-4 are rejected under 35 U.S.C. 102(a) as being anticipated by Nishio et

al (EP 1 233 536).

Regarding claim 1, Nishio discloses a communication device for performing

wireless communication shown in figure 1. Nishio discloses a channel estimation

section 1 that holds data and conducts channel estimation (paragraph 0013). Nishio

further discloses a switching determining section 6. The switching determining section 6

receives and holds a signal for measurement. This portion is the measurement-period

holding unit. The switching determining section 6 detects the number of spreading

codes multiplexed in the received signal (paragraph 0013). The number is compared to

a predetermined threshold value and a demodulation section is switched according to

this comparison (paragraph 0013). This portion is the change recognition unit. Change

is recognized since the demodulation can be switched. If the rake demodulation section

2 is selected prior to the received baseband signal being input to the switching

determining section 6 and the switching determining section determines the spreading

codes are greater than the threshold, the demodulation will be switched to the joint

detection demodulation section 3. Therefore, a change in the number of spreading

codes from a value less than the threshold to a number greater than the threshold is

recognized. The measurement period will correspond to the received baseband signal

and therefore the change in number of spreading codes. The change in demodulation

methods will be made to maintain adequate reception quality (paragraph 0017).

Paragraph 0045 also discloses the demodulation method switching is changed in

accordance with errors in decoded bits, thus enabling a fixed reception quality to be

constantly maintained. The specific demodulation sections will measure the spreading

codes multiplexed in the received signal to properly demodulate the received signal.

These sections are the delay-profile measurement unit. Additional information

discussing the receiver of figure 1 is found in paragraphs 0016-0018.

Regarding claim 2, Nishio discloses the number of spreading codes is measured

and the change recognition unit recognizes an increase or decrease in the number of

spreading codes as stated above.

Regarding claims 3 and 4, the claimed invention requires a measurement-period

holding unit operates in accordance with values indicating one or a combination of a

wireless condition or a service quality level. Nishio discloses the unit operates according

to a wireless condition (number of spreading codes). Claims 3 and 4 claim limitations of

the service quality level. These limitations are optional. MPEP 2111.04 states claim

scope is not limited by claim language that suggests or makes optional but does not

limit a claim to a particular structure.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later
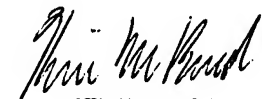
than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Kevin M. Burd whose telephone number is (571) 272-

3008. The examiner can normally be reached on Monday - Friday 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, David C. Payne can be reached on (571) 272-3024. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kevin M. Burd
9/17/2007   **KEVIN BURD**
                                 PRIMARY EXAMINER